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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/017,830	12/07/2001	David A. Cziraky	212412	5026
23460	7590	09/24/2004		
LEYDIG VOIT & MAYER, LTD TWO PRUDENTIAL PLAZA, SUITE 4900 180 NORTH STETSON AVENUE CHICAGO, IL 60601-6780				
			EXAMINER STAICOVICI, STEFAN	
			ART UNIT 1732	PAPER NUMBER

DATE MAILED: 09/24/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)	
	10/017,830	CZIRAKY, DAVID A.	
	Examiner	Art Unit	
	Stefan Staicovici	1732	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 24 June 2004.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-38 is/are pending in the application.
- 4a) Of the above claim(s) 36-38 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-35 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date <u>6/24/04</u> . | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Response to Amendment

1. Applicant's response filed June 24, 2004 has been entered. Claims 1-35 are pending in the instant application.

Election/Restrictions

2. Applicant's election with traverse of Group I in the reply filed on June 24, 2004 is acknowledged. The traversal is on the ground(s) that "[T]he Office has failed to allege or establish that examination of all the claims would constitute a serious burden on the Examiner if restriction were not required" (see page 9 of the amendment filed June 24, 2004). This is not found persuasive because as stated in the restriction requirement mailed March 24, 2004, the instant application is drawn to a molding apparatus, classified in class 425, subclass 173 and, a molding method, classified in class 264, subclass 299. Hence, the instant application requires a search in different class/subclass combinations, thereby constituting a serious burden on the Examiner.

The requirement is still deemed proper and is therefore made FINAL.

Claim Rejections - 35 USC § 102

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(a) the invention was known or used by others in this country, or patented or described in a printed publication in this or a foreign country, before the invention thereof by the applicant for a patent.

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

4. Claims 1-8, 10, 14-15 and 22-23 are rejected under 35 U.S.C. 102(b) as being anticipated by Lebensfeld *et al.* (US Patent No. 5,954,115).

Lebensfeld *et al.* ('115) teach the claimed apparatus including, a base (12), an outer cover (14), a heating component (62), a mold (30), a melting pan (16) that is pivotally mounted to said base (12) and a locking mechanism for locking said outer cover (14) (see col. 7, line 52 through col. 8, line 43).

Regarding claim 2, Lebensfeld *et al.* ('115) teach a mold having two components (30a, 30b).

In regard to claim 3, Lebensfeld *et al.* ('115) teach tabs (44) to attach the mold components (30a, 30b) to said base (12) (see col. 6, lines 23-56).

Specifically regarding claims 4-6, Lebensfeld *et al.* ('115) teach a melting position of the melting pan (16) and a pouring position into mold (30) as said melting pan (16) is rotated using crank (linkage) (63) (see Figure 1).

Regarding claim 7, Lebensfeld *et al.* ('115) teach a stainless steel melting pan (col. 7, line 37).

In regard to claims 8 and 10, Lebensfeld *et al.* ('115) teach that the clear outer cover (14) is pivotally attached to said base (12) (see Figure 1).

Regarding claims 14-15, Lebensfeld *et al.* ('115) teach a slotted wheel that operates a linkage for engaging a notch in locking said cover (14) (see col. 11, lines 49-65).

Specifically regarding claims 22-23, Lebensfeld *et al.* ('115) teach a tilt switch (74) that prevents switch (60) from being activated if the cover (14) is open. Further, Lebensfeld *et al.*

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('115) teach a projecting tab (100) and an opening (102) (see col. 9, line 52 through col. 10, line 33).

Claim Rejections - 35 USC § 103

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

6. Claims 11, 16, 18 and 34 are rejected under 35 U.S.C. 103(a) as being unpatentable over Lebensfeld *et al.* (US Patent No. 5,954,115) in view of Lebensfeld (US Patent No. 5,453,000).

Lebensfeld *et al.* ('115) teach the basic claimed apparatus as described above.

Regarding claims 11, 16, 18 and 34, Lebensfeld *et al.* ('115) do not teach a locking mechanism including a timer that controls the heating mechanism. It is noted that Lebensfeld *et al.* ('115) teach a locking mechanism that is controlled by the temperature inside the apparatus, hence teaches a control mechanism for the locking system. Lebensfeld ('000) teaches a molding apparatus including, a housing (12), an electric bulb heat source (50), a safety lid (70), a mold (80) and an automatic timer that controls the heating time (see col. 3, lines 48-55 and col. 4, lines 50-59). Therefore, it would have been obvious for one of ordinary skill in the art to have provided an automatic timer as taught by Lebensfeld ('000) in the apparatus of Lebensfeld *et al.* ('115) because, Lebensfeld ('000) teaches that a timer provides for improved process control, hence providing for an improved apparatus.

7. Claims 12 and 13 are rejected under 35 U.S.C. 103(a) as being unpatentable over Lebensfeld *et al.* (US Patent No. 5,954,115) in view of Lebensfeld (US Patent No. 5,453,000) and in further view of Deal (US Patent No. 5,538,457).

Lebensfeld *et al.* ('115) in view of Lebensfeld ('000) teach the basic claimed apparatus as described above.

Regarding claims 12 and 13, although Lebensfeld *et al.* ('115) in view of Lebensfeld ('000) teach a toy having a locking mechanism including an automatic timer, Lebensfeld *et al.* ('115) in view of Lebensfeld ('000) do not teach a spring-operated timer having gears. However, a spring-operated timer having gears is well known in the art as evidenced by Deal ('457) which teaches a toy having a locking mechanism including a spring-operated timer having gears (see col. 8, lines 58-65). Therefore, it would have been obvious for one of ordinary skill in the art to have provided a locking mechanism including a spring-operated timer having gears as taught by Deal ('457) in the apparatus of Lebensfeld *et al.* ('115) in view of Lebensfeld ('000) because, Lebensfeld *et al.* ('115) in view of Lebensfeld ('000) teach a toy having a locking mechanism including an automatic timer, whereas Deal ('457) teaches that a spring-operated timer having gears is a well known locking mechanism used in toys, hence teaching simplicity of design for the resulting apparatus.

8. Claim 19 rejected under 35 U.S.C. 103(a) as being unpatentable over Lebensfeld *et al.* (US Patent No. 5,954,115) in view of Lebensfeld (US Patent No. 5,453,000) and in further view of Pirker (US Patent No. 3,625,197).

Lebensfeld *et al.* ('115) in view of Lebensfeld ('000) teach the basic claimed apparatus as described above.

Regarding claim 19, although Lebensfeld *et al.* ('115) in view of Lebensfeld ('000) teach a toy having a locking mechanism including an automatic timer, Lebensfeld *et al.* ('115) in view of Lebensfeld ('000) do not teach a timer having a cam. Pirker ('197) teaches a locking mechanism having a timer and a cam element (5) (see col. 4, lines 19-30). Therefore, it would have been obvious for one of ordinary skill in the art to have provided a cam element as taught by Pirker ('197) in the locking mechanism in the apparatus of Lebensfeld *et al.* ('115) in view of Lebensfeld ('000) because, Pirker ('197) teaches that such a mechanism provides for improved locking control by allowing one to make correction to the timer once the locking mechanism has been activated (see col. 3, lines 10-25).

9. Claim 17 is rejected under 35 U.S.C. 103(a) as being unpatentable over Lebensfeld *et al.* (US Patent No. 5,954,115) in view of Lebensfeld (US Patent No. 5,453,000) and in further view of Bechtiger (US Patent No. 4,224,814).

Lebensfeld *et al.* ('115) in view of Lebensfeld ('000) teach the basic claimed apparatus as described above.

Regarding claim 17, although Lebensfeld *et al.* ('115) in view of Lebensfeld ('000) teach a toy having a locking mechanism including an automatic timer, Lebensfeld *et al.* ('115) in view of Lebensfeld ('000) do not teach a timer having an escapement mechanism. However, the use of an escapement in a timer mechanism is well known as evidenced by Bechtiger ('814) which teaches the use of an escapement mechanism in combination with a timer mechanism (see col. 5, lines 30-45). Therefore, it would have been obvious for one of ordinary skill in the art to have provided an escapement mechanism as taught by Bechtiger ('814) in combination with the timer mechanism in the apparatus of Lebensfeld *et al.* ('115) in view of Lebensfeld ('000) because,

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Bechtiger ('8 14) specifically teaches that an escapement mechanism is well known to be combined with a timer mechanism in order to avoid oversetting the timer, hence providing for improved time control.

10. Claims 1-3, 20-21, 24, 26-33 and 35 are rejected under 35 U.S.C. 103(a) as being unpatentable over Gillespie (US Patent No. 4,188,009) in view of Lebensfeld *et al.* (US Patent No. 5,954,115).

Gillespie ('009) teaches the basic claimed molding apparatus including, a base (11), a heating component (13), a melt pan (reservoirs) (15), a mold having an outer portion (20) and an inner portion (21) that is removable attached to said base using screws (25), a detachable top cover (12) attached to said base (11) that blocks access to said melt pan (15) and a mold halves (22, 23). It is submitted that said detachable top cover (12) is locked for a predetermined time that molten crayon material is being melted and poured into said mold to form a crayon.

Regarding claims 1-3 and 35, Gillespie ('009) does not teach a locking mechanism. Lebensfeld *et al.* ('115) teach the claimed apparatus including, a base (12), an outer cover (14), a heating component (62), a mold (30), a melting pan (16) that is pivotally mounted to said base (12) and a locking mechanism for locking said outer cover (14) (see col. 7, line 52 through col. 8, line 43). Therefore, it would have been obvious for one of ordinary skill in the art to have provided the locking mechanism of Lebensfeld *et al.* ('115) in the apparatus of Gillespie ('009) because, Lebensfeld *et al.* ('115) teach that such a mechanism provides for improved process control, hence providing for an improved apparatus.

In regard to claims 20-21, Gillespie ('009) teaches a light bulb (13) that is partially enveloped by metallic housing (12) (col. 2, lines 34-36 and Figure 1).

Specifically regarding claim 24, Gillespie ('009) teaches that said light bulb (13) is a 60 W incandescent bulb powered by a standard 110 V power source (col. 2, lines 35-40). It is submitted that a standard 110 V power source is a source of alternative current.

Regarding claims 26-32, Gillespie ('009) teaches a mold having a first mold half (22) and a second mold half (23) forming a molding cavity in the shape of a crayon (writing instrument), hence having a circular cross-section with a tapered top surface.

In regard to claim 33, Gillespie ('009) teaches that melt pan (15) has a plurality of channels (16) (sloping surfaces).

11. Claim 25 is rejected under 35 U.S.C. 103(a) as being unpatentable over Gillespie (US Patent No. 4,188,009) in view of Lebensfeld *et al.* (US Patent No. 5,954,115) and in further view of Sanner (US Patent No. 4,293,899).

Gillespie ('009) in view of Lebensfeld *et al.* ('115) teaches the basic claimed apparatus as described above.

Regarding claim 25, although Gillespie ('009) teaches a light bulb heating source powered by a 110 Volt power source, Gillespie ('009) in view of Lebensfeld *et al.* ('115) does not teach the use of direct current. Sanner ('899) teaches that an incandescent light bulb may be powered by either alternating or direct current (see col. 3, lines 1-10). Therefore, it would have been obvious for one of ordinary skill in the art to have provided a direct current as an equivalent alternative to alternating current as taught by Sanner ('899) to power the apparatus of Gillespie ('009) in view of Lebensfeld *et al.* ('115) because, Salmer ('899) teaches that an incandescent light bulb may be powered by either alternating and direct current and also because a direct

current power supply provides certain advantages such as reduced voltage levels, hence increased safety.

12. Claims 1, 4-9, 14 and 33 are rejected under 35 U.S.C. 103(a) as being unpatentable over Saffer *et al.* (US Patent No. 4,299,548) in view of Lebensfeld *et al.* (US Patent No. 5,954,115).

Saffer *et al.* ('548) teach the basic claimed molding apparatus including, a base (12), a heating component (86), a melt pan (54), a mold (44), a detachable top cover (14) attached to said base (12) that blocks access to said melt pan (54) and mold (44). Further, Saffer *et al.* ('548) teach that said detachable top cover (14) is locked for a predetermined time such that molten material is being melted and poured into said mold (see Figure 1).

Regarding claim 1, Saffer *et al.* ('548) do not teach a locking mechanism. Lebensfeld *et al.* ('115) teach the claimed apparatus including, a base (12), an outer cover (14), a heating component (62), a mold (30), a melting pan (16) that is pivotally mounted to said base (12) and a locking mechanism for locking said outer cover (14) (see col. 7, line 52 through col. 8, line 43). Therefore, it would have been obvious for one of ordinary skill in the art to have provided the locking mechanism of Lebensfeld *et al.* ('115) in the apparatus of Saffer *et al.* ('548) because, Lebensfeld *et al.* ('115) teach that such a mechanism provides for improved process control, hence providing for an improved apparatus.

In regard to claim 14, Saffer *et al.* ('548) teach that cover (14) has a lower lip (60) that fits into a recess (62) extending around the interior of the upper periphery of said base (12). Further, Saffer *et al.* ('548) teach that cover (14) also has a projecting forward portion (64) that covers mold (44) and slide (46) (see col. 3, lines 27-34).

Specifically regarding claims 4-6, Saffer *et al.* ('548) teach a melting position of the melting pan (54) and a pouring position into mold (44) as said melting pan (54) is rotated using linkage (42) (see Figure 1).

Regarding claim 7, Saffer *et al.* ('548) teach an aluminum melting pan (col. 4, line 43).

In regard to claims 8 and 9, Saffer *et al.* ('548) teach a clear cover (14) having a vent (38) (see col. 3, lines 23-25 and Figure 1).

Specifically regarding claim 33, Saffer *et al.* ('548) teach that said melt pan 954) includes a channel (see Figure 1) that allows pouring of molten material into said mold (44).

Response to Arguments

13. Applicant's arguments filed June 24, 2004 have been considered.

Applicant argues that the locking mechanism of Lebensfeld *et al.* ('115) is not "time-dependent" (see page 10 of the amendment filed June 24, 2004). However, the locking mechanism of Lebensfeld *et al.* ('115) is temperature-dependent and, since temperature is a function of time, said locking mechanism is in fact time-dependent.

It submitted that all of Applicant's other arguments filed June 24, 2004 have been considered, but are moot in view of the new ground(s) of rejection.

Conclusion

14. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Stefan Staicovici, Ph.D. whose telephone number is (571) 272-1208. The examiner can normally be reached on Monday-Friday 9:30 AM to 6:00 PM.

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Michael P. Colaianni, can be reached on (571) 272-1196. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Stefan Staicovici, PhD



Primary Examiner

9/20/04

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September 20, 2004